

November 21, 2016

Guidelines for Step I Appeal Discussions

These guidelines are established pursuant to 2016 Public Chapter 837 to establish statewide consistency in Step I appeal discussions, furthering the spirit and legislative intent of the T.E.A.M. Act. Agencies, employees, and other party representatives shall utilize these guidelines to set expectations for participants in the discussion.

Prior to the Step I discussion

- The appointing authority (or designee) shall ensure that the parties have reasonable notice of the date, time, and location of the scheduled Step I discussion. Agencies should grant employees reasonable time to prepare for these discussions and grant additional time, if requested, as long as doing so does not unreasonably interfere with the agency's statutorily required 15 calendar days response time.
- Parties should provide the appointing authority (or designee) as much notice as practicable if they are unable to attend the scheduled discussion.
- The appointing authority (or designee) has the discretion to reschedule the discussion to accommodate a request by either party, for good cause as determined by the appointing authority (or designee). In any event, the rescheduled date must provide the agency with sufficient time to issue their decision within the 15 calendar days statutorily required response time.
- The Step I discussion should be held in person unless doing so is impracticable (due to distance, safety, etc.). In those instances, the appointing authority (or designee) may schedule the discussion to take place via phone or video conference upon agreement of the parties.
- The appointing authority (or designee) shall provide a copy of the guidelines to the parties prior to the Step I discussion.
- In preparation for the Step I discussion, the appointing authority (or designee) shall review the discipline issued by the agency, the Step 1 appeal form and any additional information submitted by the employee with the Step I appeal. The appointing authority (or designee) may conduct any necessary investigation, including review of any relevant policies and procedures or investigative memoranda.

During the Step I discussion

- At the commencement of the Step I discussion, the appointing authority (or designee) shall ask each party to identify themselves and their role in the discussion. The appointing

authority (or designee) will determine if the presence of all parties and observers is in compliance with the T.E.A.M. Act as well as Department of Human Resources policies. The presence of attorneys shall remain at the sole discretion of the appointing authority (or designee), but are expressly prohibited from representing employees or management during the Step 1 discussion. The presence of other observers is at the discretion of the appointing authority who may limit observers for good cause. Employee representatives may observe the discussion, and nothing in these guidelines prohibits a representative from providing assistance to an employee during the presentation of his or her information during the Step I discussion (if deemed necessary by the designee) or responding to a question or comment from the appointing authority (or designee). A representative may request to speak to their party at any time; provided, however, the appointing authority maintains the discretion to disallow unduly burdensome interruptions. Upon the request of either party, a break can be taken from the Step I discussion.

- Prior to presentation of information by the parties, the appointing authority (or designee) shall inform the parties of the purpose of the discussion, which is for the employee to present additional information for consideration in the issuance of the discipline.

The order of the discussion shall be as follows:

1. The appointing authority (or designee) shall present the discipline issued to employee and the law(s), rule (s), and/or policy(ies) allegedly violated by the employee. The appointing authority (or designee) shall disclose the documents received and reviewed prior to the discussion.
2. Agency management will provide the designee and employee with copies of all documents or other documentation that support the disciplinary action if such information has not previously been made available. If such documentation contains confidential documentation, the documents may be redacted or collected at the conclusion of the discussion.
3. Following the presentation of information by agency management, the employee shall present any information and/or documentation showing why the agency issued the disciplinary action in error. The employee's presentation shall include how the agency allegedly violated the law (s), rule(s), or policy (ies) in issuing the disciplinary action. The employee shall provide the appointing authority (or designee) and agency management with copies of all documents or other evidence supporting the employee's allegations if such information has not previously been made available.
4. At any time during the presentation of information by the employee or the agency, the appointing authority (or designee) may ask questions of either party or employee representative to obtain additional information or gain clarification.
5. At the conclusion of the discussion, the appointing authority (or designee) shall apprise the parties of next steps, including the designee's ability to independently obtain additional information following the Step I discussion to address issues, concerns, or discrepancies raised during the Step I discussion, and timeline for completion.

After the Discussion

- If additional information is obtained after the Step I discussion, the appointing authority (or designee) shall provide copies of the information to agency management and employee within three (3) calendar days after receipt. If the information obtained contains confidential

information, the agency shall make such information available to the employee for review, but may not retain such confidential information if determined by the agency as a legal risk. Agency management and/or employee may submit supplemental responses to the additional information no later than three (3) calendar days after receipt from the appointing authority (or designee). This requirement will not alter the agency's statutorily required 15 calendar days response time to issue the written decision.

- The appointing authority shall issue a Step I decision letter to agency management and employee within the time frame provided by statute (15 calendar days after the appeal is received by the agency). The Step I decision letter shall address each alleged rule/policy violation by the employee and how the information presented altered the decision of the agency. The letter shall also contain information on filing a Step II appeal. The employee must submit a written statement detailing why the employee believes the disciplinary action was issued in error.

- In issuing the Step I decision letter to the employee, please take note of the employee's preferred method of communication as included on the appeal form (if applicable). If the employee only selected "email" as their preferred method of communication, the agency should email the Step I decision letter (and may also send via regular mail) and use the date the letter is emailed for purposes of computation of time for appeal purposes. However, if the employee has selected only "mail" or has selected both "email and mail", the agency should send the Step I decision letter via certified mail and email (if applicable). The agency should use the date the certified letter was signed for as the date of receipt.